

Pretrial Reform Initiatives

Many states have undergone recent reform of pretrial practices.¹ Reform has taken place at different levels in each state, some judiciary-led, executive-led, community-led, through litigation, and legislation. A variety of laws have been passed to

- lessen or eliminate fees and fines,
- require release for some offense types, and
- create limitations on pretrial holding.

The map illustrates the changes.

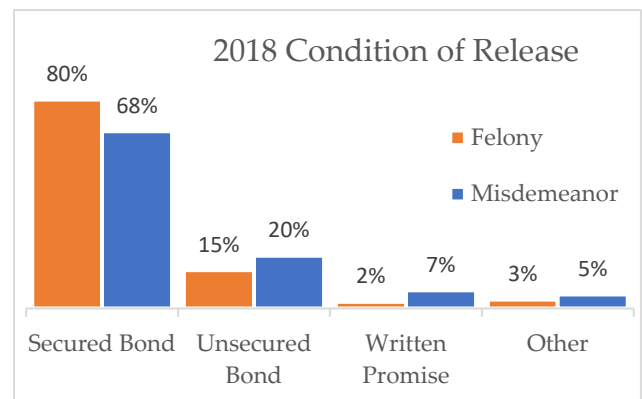
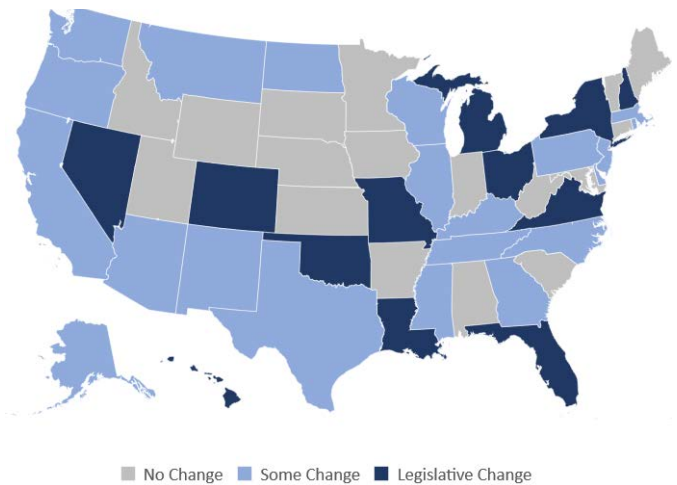
Pretrial Release in North Carolina

The bail system gives individuals charged with a criminal offense the opportunity to be released from custody before their case is resolved. North Carolina General Statutes provide the following conditions of release to be set by a magistrate or judge: 1) a written promise to appear; 2) unsecured bond; 3) designated custody of person or organization; 4) secured bond; and 5) electronic monitoring. The statute further states that the first three should be imposed unless there is concern the defendant will not appear for court or will pose a danger to any person.² This rationale is congruent with the Eighth Amendment of the U.S. Constitution which provides protections from "excessive bail" requirements.

The majority of 2018 pretrial releases in North Carolina were under the condition of secured bond, with a higher percentage for felony cases (80%) than misdemeanors (68%).³ Secure bail bond can be posted with cash, pledge of property, or through a surety, such as through a bondsman. If the defendant posts a secured bond for release from jail, it is returned to them if they appear for all court proceedings for the case. However, the secured bond is forfeited if they do not appear for scheduled court dates and if originally set as an unsecured bond, the specified amount is then due to the court.

There is considerable variation in pretrial release conditions imposed across North Carolina's counties. For misdemeanor releases, secured bond was a condition for 68% of releases overall, and ranged from 33% (Gates)

US Pretrial Initiatives

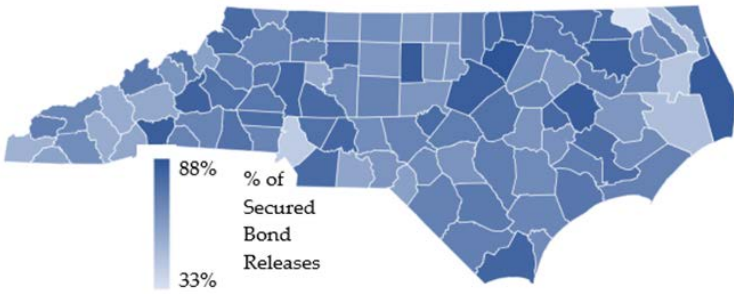


¹ Pretrial Justice Institute. (2019, July) What's Happening in Pretrial Justice?

² N.C. Gen. § 15A-534.

³ The data presented for conditions of pretrial release were obtained from the Administrative Office of the Courts for release of 151,587 felony and 216,346 misdemeanor cases in 2018. These are the last entry for condition of release entered by court personnel during 2018 and may be set at the initial release or any subsequent proceedings.

2018 Misdemeanor Secured Bond Releases by County



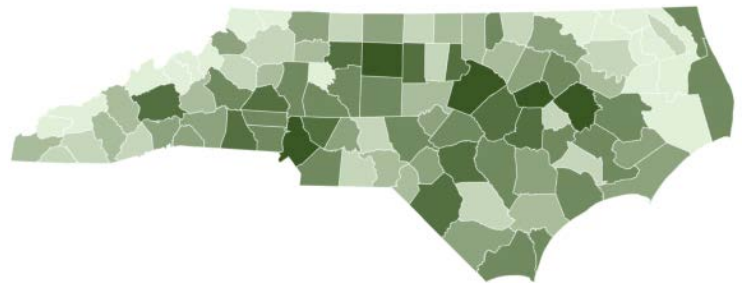
to 88% (Franklin) as shown in the map. The two largest counties are on opposite ends of the spectrum for misdemeanor releases under secured bond, with 42% in Mecklenburg and 84% in Wake.

Similarly, misdemeanor releases under the condition of a written promise to appear vary by county. Overall, only 7% of misdemeanor pretrial releases are under a written promise. This ranges from five counties with no releases under a written

promise to Avery county with 31% of misdemeanor pretrial releases under the condition of a written promise. The variation in conditions of pretrial release is in part attributable to the fact that, by statute, pretrial release policies are issued within each judicial district to guide the practices of magistrates and judges.⁴

In the event a defendant released under a secured bond does not appear for court, the bond funds are disbursed to the county. In 2017-18, the Administrative Office of the Courts reported a total of \$12,384,329 in forfeiture disbursements.⁵ The amount each county received varied. Half of North Carolina counties received less than \$63,000 in forfeited bonds and eighteen of those counties received less than \$10,000. On the higher end of disbursements, sixteen counties received over \$200,000, with five counties receiving over \$500,000 in forfeited bond funds.

2017-18 Bond Forfeiture Disbursements to Counties



Up to \$10,000	\$10,001 -40,000	\$40,001 -60,000	\$60,001- 100,000	\$100,001 -200,000	\$200,001 -500,000	Over \$500,000
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Pretrial Release Reform Initiatives Across the State

The Attorney General’s Office is hosting roundtable discussions (3 occurred in 2019 and 2 are scheduled for 2020) to discuss current and potential initiatives to improve accountability in the pretrial process.⁶ Reform ideas have been discussed, and are being implemented in some jurisdictions at all stages to include:

- training for law enforcement and magistrates on citations/summons in lieu of arrest,
- referring to pre-charge diversion programs (mental health or substance use disorder programs),
- updating bond policies,
- using risk assessment tools to set conditions of release,
- participating in pretrial release programs,
- providing timely first appearances for all defendants (including misdemeanors),
- including early involvement of public defenders,
- using court date reminder systems,
- scheduling expedited court dates, and
- creating local criminal justice advisory councils utilizing the expertise of area stakeholders to identify emerging issues/concerns and work collaboratively to develop solutions and leverage resources.

⁴ N.C. Gen. § 15A-535.

⁵ Data from the Administrative Office of the Courts Budget Management and Financial Services.

⁶ Attorney General Josh Stein. *Pretrial Justice and Accountability: Implementation Ideas*.